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9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 BANK OF AMERICA, N.A.,

12 Plaintiff,

13 v.

14 ELKHORN COMMUNITY ASSOCIATION;
15 SFR INVESTMENTS POOL 1, LLC;
16 ABSOLUTE COLLECTION SERVICES, LLC,

17 Defendants.

Case No.: 2:16-cv-00524-RFB-NJK

18 **STIPULATION AND ORDER**
19 **DISMISSING CLAIMS AGAINST**
20 **ELKHORN COMMUNITY**
21 **ASSOCIATION**

22 SFR INVESTMENTS POOL 1, LLC,

23 Counter/Cross Claimant,

24 v.

25 BANK OF AMERICA, N.A.; and DEBORAH S.
26 LIENING, an individual,

27 Counter/Cross Defendants.

28 Plaintiff Bank of America, N.A. (**BANA**) and defendant Elkhorn Community Association
(**Elkhorn**) stipulate as follows:

1. This matter relates to real property located at 7905 Mountain Point Avenue, Las
Vegas, Nevada 89131 (the **property**).

2. BANA is the beneficiary of record of a deed of trust recorded against the property with the Clark County Recorder on December 6, 2002, as Instrument No. 20021206-00383 (the **deed of trust**), executed by Deborah S. Lienen.

3. On August 14 2013, Elkhorn recorded a trustee's deed upon sale with the Clark County Recorder, as Instrument No. 201308140001799 (the **HOA foreclosure deed**), reflecting that defendant SFR Investments Pool I, LLC acquired the property at a foreclosure sale of the property held on August 13, 2013 (the **HOA foreclosure sale**).

4. On March 9, 2016, BANA initiated this quiet title action related to the property in the United States District Court for the District of Nevada, Case No. 2:16-cv-00524.

5. BANA and Elkhorn have entered into a confidential settlement agreement in which they have settled all claims between them in this case.

6. Among other things in the settlement agreement, Elkhorn agrees it no longer has an interest in the property for purposes of this quiet title action *vis a vis* the deed of trust. This disclaimer of interest does not apply to the continuing encumbrance of Elkhorn's declaration of covenants, conditions and restrictions, any governing documents adopted thereunder, easements, servitudes, or other interests on the property. Elkhorn agrees it will take no position in this action or in any subsequent action regarding whether the deed of trust survived the HOA foreclosure sale. The parties agree that as between BANA and Elkhorn, the deed of trust was not extinguished by the HOA foreclosure sale.

7. Among other things in the agreement, BANA and Elkhorn agree that BANA does not waive its right to seek relief against the non-settling parties, including but not limited to SFR Investments Pool I, LLC or Absolute Collection Services, LLC related to its remaining claims in the quiet title action. BANA does not admit the deed of trust was extinguished, and any consideration exchanged in exchange for the dismissal of the claims against Elkhorn is not intended to be compensation for any loss of the deed of trust, but instead compensates for fees and costs BANA incurred litigating the propriety and effect of Elkhorn's sale and related conduct.

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8. BANA and Elkhorn further stipulate and agree all claims between them are dismissed with prejudice, with each party to bear its own attorney's fees and costs.

Dated this 17th day of July, 2020

AKERMAN LLP	BOYACK ORME & ANTHONY
<u>/s/ Scott R. Lachman</u> ARIEL E. STERN, ESQ. Nevada Bar No. 8276 SCOTT R. LACHMAN, ESQ. Nevada Bar No. 12016 1635 Village Center Circle, Suite 200 Las Vegas, NV 89134	<u>/s/ Edward D. Boyack</u> EDWARD D BOYACK, ESQ. Nevada Bar No. 5229 7432 W Sahara Ave. Ste. 101 Las Vegas, NV 89117
<i>Attorneys for Bank of America, N.A.</i>	<i>Attorney for Elkhorn Community Association</i>

IT IS SO ORDERED.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE
2:16-cv-00524-RFB-NJK
DATED this 20th day of July, 2020.

AKERMAN LLP

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